

D. Remarks:

Upon entry of the present amendments, claims 48-51, and 54-55, and 57-79 will be pending in the application. Claim 56 has been canceled, without prejudice or disclaimer. Claims 48, 54 and 55 have been amended to more particularly point out the subject matter of the claims. Support for the amendments to claim 48 can be found at least on pages 7-10 of the Specification. Support for claims 54 and 55 can be found at least on page 73, lines 13-24 of the Specification. Support for new claims 57-79 can be found throughout the Specification and in the claims as originally presented. Claim 51 has been amended to expedite prosecution of this application. No new matter has been added.

Examiner's Position.

First, Applicants acknowledge with appreciation the Examiner's recognition of the utility of the claimed invention, and that the claims, as related to SEQ ID NOS: 1, 2, 15, and 17, are free of the prior art. The Examiner made the following arguments in the Office Action:

- (1) Claim 48 was objected to for using improper grammar;
- (2) Claim 51 is rejected under 35 U.S.C. § 112, ¶ 1 for being overly broad and therefore lacking enablement;
- (3) Claims 48-51, and 54-56 are rejected under 35 U.S.C. § 112, ¶ 2 as being vague and indefinite.

These arguments will be addressed *seriatim*.

Objection to Claim 48 Overcome.

The Examiner objected to claim 48 for reciting "their complements" rather than "its complement." Applicants thank the Examiner for pointing out this error. Claim 48 has been amended according to the Examiner's suggestion. Accordingly, the objection should be withdrawn.

Rejection of Claim 51 under 35 U.S.C. § 112, ¶ 1 Overcome.

The Office rejected claim 51 as allegedly containing subject matter which was not described in the Specification in such a way as to enable one ordinarily skilled in the art to which it pertains to make and/or use the invention. The Examiner submits that the claim is overly broad, that the area of the invention is unpredictable, and that the quantity of experimentation necessary to execute the claimed invention is high as there are no working examples in the Specification, despite the fact that the Examiner acknowledges that the relative skill of those in the art of DNA technology is high.

Without acceding to the propriety of the Examiner's position and merely to expedite prosecution of this application, Applicants have amended claim 51 to recite only a "composition," rather than a "pharmaceutical composition." Such recitation no longer implies a medicament for gene therapy (See page 3 of the Office Action). The Examiner's rejection of claim 51 is now moot, and should be withdrawn.

Rejections of Claims 48-51 and 54-56 under 35 U.S.C. § 112, ¶ 2 Overcome.

The Office rejected claims 48-51 and 54-56 as being vague and indefinite in one respect or another. Claims 48, and 54-56, for example, were rejected for reciting "RISKMARKER 1 nucleic acid." Claims 54 and 55 were additionally rejected for failing to recite certain components.

Claims 48, and 54-55 have been amended to recite the specific SEQ ID NOS of RISKMARKER 1, *e.g.*, SEQ ID NOS:1, 2, 15, and 17. Claim 56 has been canceled. Accordingly, the Examiner's rejection is moot and should be withdrawn.

Similarly, claims 54 and 55 have been amended to include components of the kit (54) and array (55). As such the Examiner's rejection is now moot. Reconsideration and withdrawal of the rejections is respectfully requested.

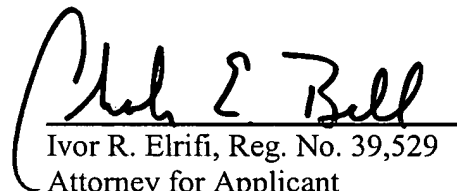
E. Conclusion:

Applicants submit that this paper is fully responsive and that the application is in condition for allowance. Such action is respectfully requested. Should any questions or issues arise concerning the application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

A Petition requesting a two-month extension of time accompanies this response. Check No. 16396 in the amount of \$205.00 is included to cover the corresponding fee, under 37 C.F.R. § 1.17(a)(2). With the extension, the response is due on or before Monday June 2, 2003, the nominal due date of May 31, 2003 occurring on a Saturday. The Commissioner is hereby authorized to charge payment of any additional fees required in connection with the papers transmitted herewith, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 15966-601 (Cura-101).

Respectfully submitted,

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